

# Steens Mountain Advisory Council

## Meeting Minutes

### September 15 and 16, 2003

### Bend, Oregon

#### **Members Present:**

Hoyt Wilson, Grazing Permittee, Princeton, Oregon  
Jerry Sutherland, Vice Chair, Environmental Representative – Statewide,  
Portland, Oregon  
Tom Harris, Chair, Mechanized or Consumptive Recreation, Keno, Oregon  
Alice Elshoff, Environmental Representative – Local, Frenchglen, Oregon  
Wanda Johnson, Burns Paiute Tribe, Burns, Oregon  
Cynthia Witzel, Recreation Permit Holder, Frenchglen, Oregon  
Stacy Davies, Grazing Permittee, Frenchglen, Oregon  
Harland Yriarte, Private Landowner, Eugene Oregon  
Richard Benner, No Financial Interest, Portland, Oregon  
Jason Miner, Fish and Recreation Fishing, Portland, Oregon  
Steve Purchase, State Liaison, Salem, Oregon

#### **Members Absent:**

E Ron Harding, Wild Horse Management

#### **Designated Federal Official (DFO):**

Karla Bird, Andrews Resource Area Field Manager Bureau of Land Management  
(BLM), Hines, Oregon

#### **Designated Federal Official Assistants:**

Rhonda Karges, Management Support Specialist, BLM, Hines, Oregon  
Liz Appelman, Budget Analyst, BLM, Hines, Oregon  
Tara Wilson, Public Affairs Specialist, BLM, Hines, Oregon

#### **Presenters:**

Cam Swisher, BLM, Hines  
John Neeling, BLM, Hines  
Fred Otley, Othey Brothers, Inc.

#### **Facilitators:**

Dale White  
Terry Morton

## **Commenting Public:**

Tom Harris, Self	Julie Brugger, Self
Ken Snider, Sierra Club	Brent Fenty, ONDA
Charlie Otley, Otley Brothers, Inc.	Fred Otley, Otley Brothers, Inc.
Jill Workman, Sierra Club	Tara Gunter, ONDA
Jack Rinn, Land Use Consultant	Pam Hardy, University of Oregon
Scott Silver, Wild Wilderness	Sandy Lonsdale, Conservation Leader
Jack Remington, Self	Susie Hammond, Hammond Ranches, Inc.
Bill Marlett, ONDA	Harland Yriarte, Self
Steve Huddleston, Citizen	Steve Munson, Self
David Blair, from Ball Janick, representing George Stroemple	

## **Others Present:**

Pat Anderes, Burns Times Herald	Bob Harris, Self
Joani Duford, COMAC	Margaret Wolf, BLM, OR State Office
Drannan Hamby, Self	Maryanne Otley, Diamond Valley Ranch
David Bilyen, Self	Dave Harmon, BLM, OR State Office
Joe Glascock, BLM	Milton LaFranchi
Tom Dyer, BLM	Anne Blair
Lee Andersen	Mark Sherbourne, BLM
Matt Obradovich, BLM	Denice Villadoud, Z21 News
Walt Selisch, Z21-8	
Colby Marshall, Rep. Greg Walden's Office	
Hillary Barbour, Rep. Earl Blumenaur's Office	

## **Welcome, Introductions, Housekeeping and Agenda:**

The meeting was called to order, introductions made and the agenda reviewed.

## **Chairman Update:**

- Tom Harris reported
- The replacement listing for Mike Golden position out as of today.
  - The charter language change was submitted and went through okay.
  - The charter now includes section on ethics, requested members to review
  - An opportunity for SMAC members to attend a meeting concerning sustainable working landscape. Decided to allow RAC to cover it - cost efficient and time savings.
  - No update available on the status of the appointments to SMAC.

## **DFO Update:**

- Karla Bird reported the Draft RMP mailed to the public last week.
- The Federal Register notice will be published on September 19, beginning the 90-day comment period, which closes on December 17.

- Public meetings will be held:
  - October 27 in Portland
  - October 28 in Bend
  - October 29 in Burns
  - October 30 in Frenchglen.
- SMAC's recommendations provided to BLM during April, May and June, were incorporated into the BLM proposed action with the exception of the proposal to re-extend one Herd Management Area. This proposal was excluded from the proposed action (but covered in Alternative E), because it would create conflicts with bighorn sheep.

Members looked at the map in reference to the Blair bypass road. Stacy volunteered there was another road that exists that may serve instead of this new one.

While updating the Council on the Campbell and Brandis land exchanges information from between the June meeting and now, Karla explained the first step was to determine if the exchange was feasible. One of the things discovered early in the study was the lands the proponent selected were lands the BLM had previously acquired in an exchange with Land and Water Conservation Fund (LWCF) money. BLM currently has a policy whereby it cannot exchange lands acquired with LWCF money. She asked the SMAC to consider whether or not to recommend the BLM request a waiver of this regulation.

Karla informed members the Kiger wild horse gather began last Thursday with 43 horses gathered that day. The next day the helicopter crashed injuring the pilot who is undergoing surgery today. The BLM is searching for another helicopter and pilot to complete the gather to meet the timeframe for the adoption on October 23-26.

Eight volunteers from the Steens-Alvord Coalition, with the coordination of ONDA, removed four troughs and a small amount of fence. Under a Cooperative Management Agreement (CMA), Roaring Springs Ranch hauled the material out of the area. Wilderness volunteers will be helping out next week.

Karla updated the Council on her activities since the last meeting which included various trainings, reviewing comment letters, meeting with historical recreation permit holders, and completing the Final EA and decision record for historic special recreation permits which should be signed and mailed September 22. She also spent many days in the field, hiking, riding horse and camping, attended part of the Steens Running Camp, participated in the Steens Rim Run. Karla and her staff worked with BLM's Washington Office on how citizen WSA proposals should be dealt with. Staff identified three additional areas that had WSA potential, so these and the one area (of 24 proposed by ONDA) determined as having wilderness characteristics are discussed in Alternative C. The three areas were acquired by BLM in land exchanges.

Karla talked of how SMAC has an opportunity to find creative solutions to these issues and to provide BLM with the recommendations for them. Cindy commended Karla for her getting out into the field so much, and hopes Karla can continue doing so.

## **Wilderness Inholder Access:**

Terry Morton introduced herself and gave a summary of her background. She also explained the mediation/problem solving process - clarifying issues, surfacing underlying interests, generating possible/partial solutions and building an agreement, reviewing and revising as needed.

Council members identified things to **ACHIEVE** in this meeting:

- Consensus recognizing continued access historical and motorized
- Workable historical access definition
- Best focused effort
- Better understanding of inholders' history of use and current needs
- Decreased concern for precedent setting
- An agreement that is reasonable to landowners and doesn't lower wilderness protection
- A creative agreement that works within all of the parameters of the Steens Act
- Remember that before the race shake hands, during the race give it what you got, after the race shake hands
- Property rights prior to Act (historical) using a creative process
- Able to break free of our positions and talk about our interests
- Decision emphasize tolerance until ownership changes dictates other options
- Reasonable motorized access taking into account impacts on wilderness users
- Coming to a decision that respects Steens place in the National Wilderness Preservation System
- Creativity within the bounds of the law
- Learn some lessons out of the exercise that SMAC can use on other issues.
- Local solution
- Workable definition of historical use
- Define what access will be allowed.

Members then identified things to **AVOID**:

- Accomplishing nothing
- Leave without learning from each other
- Coming back in 100 years and re-debating this
- Wasting 2 full days of time
- Creating an agreement that does not work within the parameters of the Steens Act and the flexibility
- Undermining of our achievement
- No decision
- Conflict that would further polarize SMAC from its established goal which is to advise BLM on this process.
- A polarized screaming contest
- Further delays in the EA
- Personal attacks
- Court process

- Accomplishing nothing and polarization.
- Further delays
- National group interference without local people input
- Mistruths
- Not learning from this process for we can make complex decisions could lead to other complex issues.
- Saving the world, focus on local solution.
- Setting negative precedence
- Allowing the debate to carryover into members' relationships.
- Undervalue the perceptions and needs of inholders and wilderness advocates instead over emphasizes the structure and law that has gotten us here.
- Rabbit Trails
- Arguing about the past (or law, or interpretation)
- EAs out of the same box

Members discussed various aspects of all the things listed, with some expressing concern on how the local decisions would affect the Wilderness System as a whole; a need for the focus of the decision to be local; the need for an EA on any motorized access and how wide the basis for the decision should be.

Members then discussed the scope that the discussion should entail. Stacy felt if it was widened to be wilderness inholdings then Ankle Creek EA wouldn't have much bearing. Also how specific any recommendation should be. Jerry reiterated there needs to be an EA for any motorized access, each and every one.

Members discussed concerns with the scope of the discussion from how broad or narrow it should be; what type of items it should include; and how best to meet the needs of all concerned. Stacy expressed concern about even having an EA since he believes the law grants reasonable access and EA puts that at risk. He thinks it is a negotiated agreement between BLM and landowner because access is granted up front.

SMAC members defined **scope** as principles applicable to wilderness inholdings that are specific, practical, defined and can be translated into an EA.

Dick suggested a possible alternative to the EA would be purchase or exchange for the property, thereby, no access would be necessary. Also perhaps calling it an EA is not necessarily important; it could still result in an agreement.

Issues:

- Do individual property owner agreements with BLM require EAs?
- NEPA is a requirement in order to have access.
- Frustration with the EA process itself and what it has come to entail, when it doesn't have to
- Since BLM has interpreted that an EA is required, those are the rules

## **PUBLIC COMMENT:**

Tom Harris, see attached notes.

Ken Snyder, Milwaukie, Oregon, see attached notes.

Charlie Otley, Otley Brothers Inc., expressed concern he hasn't heard enough to bring all of his concerns to the table. One of the concerns is the SMAC is similar to the State and Federal legislature - they count votes before the motion. If these are not to their line of thinking, they don't make motions. He would like to see a little more voting to see who the friends and enemies are and get something in a motion and on record that can be discussed. Charlie expressed the concern those making decisions can't be in the East. They need to be here on the Mountain and know what is going on here; however, he thinks this may be the case of how many things are done. Sometimes he believes EAs are written in a very bad form and thinks they should be disregarded in that same sense. He'd like to come up with something better than the EAs he has read and evaluated.

Susie Hammond, Hammond Ranches, Inc., stated she believes the group here has done a good job of going through the conflicts a number of times but just never came to a conclusion and that is extremely exasperating. She stated no one is considering private property rights and she believes the law was designated to consider private property. What the Committee debates between Federal lands and private property are not the same debate. Unless a policy is created within the next two days that provides for flexibility, there will be no success. She doesn't think an EA is necessarily the best way, and believes other opportunities exist such as a CMA. The BLM may have to go through an EA but this group doesn't. She stated the dynamics on the Steens are extreme and they change constantly and if flexibility is not put in for the extreme constant change and private property rights, then every single EA will be contested. She agreed with Tom Harris that motorized access isn't the issue, because unfettered access should be allowed. They believed the legislation would be a better way of life, but it isn't and she doesn't believe they would have supported it if they had known. She doesn't believe an EA for each access is a positive way to spend time.

Jill Workman introduced herself as having filled many roles in life such as Chair of SEOARC. She understands the difficulty of reviewing documents and coming to personal conclusions and working with fellow workers. Consensus is not easy but creative thinking and willingness by all parties to work toward a solution is better. As Chair of the Steens-Alvord Coalition, she watched the Steens Act evolve through various documents that might have created a second class wilderness with specific exceptions to the Wilderness Act. The Steens-Alvord Coalition stood firm in its no exceptions to the Wilderness Act stance. She cannot speak to promises made or alleged intent, promises were made on all sides. She appreciates the time the SMAC members give to this, and reminds the BLM that the implementation of Steens Act means they must move forward with or without SMAC. She offered the suggestion that the SMAC should provide guidance for better management of Steens Mountain. If you cannot do that without ripping this body apart, don't do it, pass on it. Jill talked of how the legislation isn't exactly like any of us would have written it, but compromise got us here. Not everyone

got everything they wanted. She asked the group to work with what they have, not with what might or might not have been promised. She asked the group to work in the spirit of compromise and unity and to work toward implementation.

Robert Freimark, The Wilderness Society, stated The Wilderness Society has a long history of involvement of getting lands designated into the Wilderness Preservation System and have been long time advocates of getting the Steens into it as well. He brought copies of a handbook about what it means to be part of Wilderness. Steens Mountain is also part of BLM and a part of NLCS which was created in 2000. The purpose of which is to really protect those lands in BLM truly deserving of additional protection. Robert stated the Steens is truly a gem and a national treasure and needs protection. The concern of his membership is focused on this area and they look at it as a treasure. He is also on a steering committee of the Steens Alvord Coalition and was part of the committee when negotiations were being conducted. He emphasized that no group got everything they wanted. Wilderness designation affords high standards of protection on Federal lands and BLM is entrusted with making management decisions on behalf of American people. The Wilderness Act and Wilderness designation allow reasonable access to private lands and that is what the discussions have been about. The way he would approach it is to determine what the historical access was and what the use was prior to Wilderness designation. But judging from the EA he reviewed, there wasn't a lot of historical information gathered. He would ask BLM to provide historical content, how and when access was used, and then use this information to help determine what constitutes reasonable by law. He is optimistic the landowners' needs can be met and still protect the Steens while complying with the law. Objective of the legislation was to promote cooperation and to reduce conflicts between users and interests. He looks forward to this happening. He expressed his appreciation for the SMAC members' time, energy and commitment to this process.

Jack Rinn, Land Consultant, cautioned the Council and Bureau to not get consumed by the historical use business because what he believes is more important is future uses which might be permitted by state and local rules. Historically he doesn't know of any example where the Federal government has told landowners what they can or cannot do; that is a providence of state and local governments. He read the Columbia Gorge law and even in that the Federal government doesn't attempt to control or put their discretions in place of state or counties. A Malheur rancher contacted him because a cell tower company wanted him to put a tower on his land, 10 years ago that was not a word in our vocabulary. He cautioned what might be important in 10 years is the function of what is permitted by state and local regulators and to not let this access thing become a back door and precedent setting way of Federal government telling us what we can do. The public does have another option, they can always buy the property from private landowners. If a person has a private easement across a neighbor's property and the neighbor tried to change that through new laws, the person would most likely object to that and would fight. These inholder properties are given access to their properties in an 1864 law, now the Wilderness Act comes into play and it trumps that access. So it is understandable that private property owners could get upset over that change.

Scott Silver, Executive Director of Wild Wilderness, based in Bend, wanted to bring the discussion to a broader level. He stated that basically we are dealing with Wilderness which is a Federal law coming up to its 40<sup>th</sup> anniversary. This Federal law applies to the Steens. Some would like to modify the Wilderness Act because they find it too restrictive. They find it not meeting their particular desires. However, the Wilderness Act is well loved by many and until such time as people of this country are ready to change it, it is the legislation that governs Wilderness. Steens Mountain is part of the Wilderness Preservation System. He agrees with what Jill said and to build on it. Scott emphasized the legislation was passed and is law and the only other law that is directly applicable is the Wilderness Act and both of those are important in a bigger sense. If we start reinventing the Wilderness Act to face Steens' unique problems, what do we do with Wilderness? The way to change it is through Congressional action not through what might be done here. There are other processes in the works for Wilderness areas, two of which are similar to the Steens. He would hate the Steens to become a model of how to write a law and then ignore the law. Scott felt it was not a choice of whether or not to work within the laws, it is law and the power to make new laws does not lie with this body. The Steens must be managed as Wilderness and as a part of the whole preservation system.

Jack Remington, stated he had been enjoying Steens for many years prior to legislation. His opinion is that vehicles should be kept out of the Wilderness. He urges BLM to make every possible step to purchase the inholdings at a fair market price.

Bill Marlett, Executive Director of ONDA, agrees with a lot of things been said. ONDA too was a landowner on Steens up until a couple weeks ago when they sold 20-acre parcels. When they were in the process of negotiating the legislation, the intent was that the inholdings be acquired over time. He stated everyone needed to keep that in the back of their mind. The focus isn't so much how to gain access, but rather how to acquire inholdings at fair market prices with willing buyers and sellers. In the interim, there must be guidelines that determine what reasonable access is. Unfortunately because the legislation was on a fast track, most of the time and energy was spent on negotiating land exchanges. Congress authorizes monies for acquisition then appropriates the funds based on whether or not willing sellers are available. He agrees it is a great incentive to say we should deal with inholdings first then make it wilderness; unfortunately reality doesn't work that way. Faced with deadlines, the best that could be done was to recognize some private lands were left in Wilderness. Although several acquisitions have been made so far, it is a time consuming process and just like the grazing phase out was not written into the legislation. He would like to stress that the phase out of inholdings in Wilderness be looked at in the same light. He emphasized that ONDA's goal is to preserve the integrity of Wilderness and an interim phase that might give the Congressional staff incentive to appropriate funds to acquire inholdings might be the way to deal with it. During the interim time, it is important there be some accountability and reciprocity between BLM and inholders. He believes there has to be some accountability on monitoring, maintenance and perhaps annual reporting. Monitoring by BLM through annual documentation and photo points and flexibility, then after 3 years see where we stand and how it is working.



Harland Yriarte talked of having looked at history and how things happened to various Indian tribes, and manifest destiny in regard to man's right to take all the lands from the west of Mississippi to the ocean. He spoke of the thought process concerning how to best dislocate those people in humane ways. First thing done is to work with them, try to get certain things taken care of such as ask for permission to go on their land. When it goes higher up, it gets more political and then public opinion weighs in giving power to the side that has been attacked by the demonized opponent. He finds a lot of similarities between how the Indians were removed and today. He hears talk of buying people out, but it is not the redskins, it is now the rednecks. Although it's not about killing buffalo there are a lot of ways to take away food sources. A lot of laws come into effect, a lot of different things that allow harassment to take place to get them on their knees to meet for a treaty. Once public opinion is swayed, demonize them and take away food sources. The person and treaties wanted can be obtained. There were a myriad of treaties with the Cherokee over the years. Currently he's not sure if any Cherokee have any property remaining. It was a bit here and a bit there. Every treaty has a buy out and he's found if you put the person down, they have no choice but to cooperate. They can't make a living any more. It all boils down to they finally had to cooperate.

### **Access Discussion (con't):**

Terry reviewed with the groups the different things she did to prepare for this meeting which included driving all over to interview people. Terry broke the group into smaller ones with requested outcomes.

From the smaller groups the following **Important** things were identified.

Important:

- “conspiracy concern” about negotiations for Steens Act
- “reasonable” and “adequate” what they mean is key
- Litigation option/odds
- “Unfettered” implies irresponsibility – problem with word; negative value
- Ideological more than practical
- Define reasonable
- Experience of Native Americans leads Wanda to be sensitive to landowner rights.
- Many issues left unresolved with hope SMAC would resolve them
- All environmentalists in some way see it as home
- Reasonable is in the eye of the beholder
- Both sides see what they got in the Act differently
- If we had started with a vision of the mountain, decisions like these might flow easier.
- Wilderness ethic is different than access issue.
- The guiding vision of the Act was to keep the Mountain like it is, and that means something different to everyone.

SMAC members agreed to hear what the public audience members had discussed as well. Pam Harding reported out for the audience group and relayed - it came out that people don't want inholders to have to ask for every time they wish to access their property. The idea was to create incentives so the kinds of inholder access that exists would phase out. Possibilities include non-governmental funding to buy out inholdings. If such a collaborative idea came from SMAC, it is likely to get funded. Other options were no development is wanted so buy the kinds of things on property that would make people go there. For example, those who would place a home on their land, buy the development rights, buy the property outright, use conservation agreements.

## September 16

The meeting was called to order by Dale White.

### **Introductions, Review and Approve June Minutes, Action Items;**

Motion made and seconded to approve the minutes as corrected (Stacy moved, Jerry seconded).

Discussion: None

**Consensus Decision:** Approve minutes as corrected.

### **Wilderness Inholder Access Con't**

SMAC members discussed their thoughts on yesterday's meeting, with most expressing positive opinions and some sense of optimism for today's results.

Members identified **UNDERLYING CONCERNS** as:

- wilderness protection, physical
- motorized access
- maintenance
- confrontation between users
- not having to ask permission to access property
- property rights
- property values
- wilderness experience –solitude type
- historical rights
- avoiding precedence - weakening
- within the parameter of the law
- What about properties with motorized access but undefined roads?
- Being forced out

**Potential Pieces of Solutions** Identified by the Members:

- Let transportation dictate the access level (Level 2 Use category, minimal maintenance, no improvements)

- Short term/long term
- Interim plan (3-5 years) to allow Congress to fund purchases (CMAs) from willing sellers (allows for Ellis transition) (Goes through EA)
- Monitoring – other methods (gate, road counters)
- Maintenance to preserve access (e.g. address erosion)
- No road improvements (e.g. gravel, culverts)
- Encouraging and educating non-motorized access opportunities and tolerance (e.g. other trail)
- Purchase development rights
- “Not forever thing”
- Allow motorized in excess of required numbers
- Honor the motorized types essential for business and owners needs
- Where possible advise BLM of entry date and time (assign responsibility to user and assists in preventing confrontation)
- Visitation numbers assist in assessing maintenance requirements
- CMA then don’t have the devaluation of the process of user he becomes a partner in it.

## **PUBLIC COMMENT:**

Susan Hammond, Hammond Ranches, appreciates all of the members working on this issue, and what she is about to say may be offensive. She sees a bunch of older people, her included, coming to these meetings at great expense to defend private property. She sees people saying they can’t hear, that they don’t understand, and she feels everything is being drowned out by this big sucking sound of the Federal government which is a giant leach sucking the lifeblood of Steens Mountain. There are managers and there are predators and you can’t have government without private property. It is the activities on private property and use of natural resources that create wealth making us able to afford government and what she feels is the luxury of Wilderness. She thinks a dictionary is needed so a precise definition is known rather than going around the room and giving their warm and fuzzy feeling as to what something means. Susie said intending no offense to Terry, but Susie doesn’t believe this process has been constructive from her point of view as a private property owner. She stated there are brilliant minds at this table made to sit in specific places to thinking they were covering everyone’s interest, but they are being brainwashed. She believes the government has chosen strategies to be able to manage these people who are sitting at this table and the reason the people are at the table is the government has failed to manage the land. She sees the manipulation of documents, the strategic way documents are placed on the tables, the way the internet is used and letters are answered are all manipulations. Susie said her family has commented several times they thought that it would be a courtesy for the SMAC to have a post card or anything to acknowledge receipt of the letter and perhaps say it will be brought to the whole council at a particular time or it will be considered at the next meeting, or no the SMAC has no intension of doing anything with it. People have an interest and a reason for writing their letters. She knew the County Court had made comments on the EA but she didn’t see a copy of it till she got home and found it stapled in the middle of some other documents. Those papers weren’t even on the table today. If they continue down this road everyone’s worst fears will happen. Silence and solitude are

natural on Steens, public access has always been allowed, and private property will be forced into a corner and there will be none of the above.

Julie Brugger introduced herself as a graduate student at the University of Washington and is working on a similar project to Pam Hardy, only at the Grande Escalante Staircase. That monument was created in a much different way than this protected area. She is interested in the difference it makes and for various other reasons wanted to see this Advisory Council and how it functions, especially since the Grande Staircase will be forming their own soon. She is really impressed and inspired by being here and observing and listening. She said it might seem like a long difficult process, but she is glad you've undertaken it on behalf of your communities.

Tara Gunter, Communication Director, ONDA, wanted to thank the Council for having the meeting in Bend, it makes it easier for her and those on the west side of Oregon to attend. She thanked SMAC members for all the time spent during the past 2 days to resolve this issue. She came expecting to see a lot more fireworks, but thinks the creativity and courtesy that have been shown are really impressive and hopes the Council comes to a good conclusion. Tara spoke of the CMA that the Steens-Alvord Coalition signed with BLM to dismantle spring developments. She thanked John Neeling for coordinating the work party where they removed three spring developments in all weather conditions. Despite being the youngest person out there, she felt outworked by all the volunteers who are very committed and worked during their vacation. This reinforced to her how important the Mountain is to a vast array of people. It was a physical representation of the spirit of the Act and urged BLM to work with the public on CMAs. In finishing, she'd like to urge BLM to use this opportunity to monitor and see how the creek and area changes now that it is in cow free wilderness zone. She thanked the Council for the opportunity to speak and for all their hard work.

Fred Otley, Otley Brothers, disagrees with where the Council is going on access to Wilderness inholdings which is taking the group away from central issues and elevating problems that aren't there. It is making it harder to avoid problems that relate to goals and objectives the Council could come to agreement on. The starting point is unfettered access, it is a property right. Access on Steens Mountain is self-limiting by the road or trail condition. It changes condition over time but there is a standard (topography) inherent in each road which itself is the limiting factor. He spoke of the need for the guidelines to be acceptable as well as within the law. Limiting the number of trips is not acceptable nor does he believe it to be lawful. He said it is fine to have the conversation about historical use, which are goals and objectives that you might want to achieve. He admonished the Council not to waste their time determining access, reasonable access, etc., but rather to come to agreement on maintenance and the level of maintenance. He felt the BLM and SMAC have no business or legal basis for use limitations. It is counter productive to where the Council should go and if that gap is to be bridged, they should not worry about use limitations or access limitations. Sit down with parties and come to agreement with private property owners to do that or even buy it to achieve a goal in a positive way not violating a basic economic principle of private property. Fred talked of the Kiger Fence and the need for an effective fence and with that particular location there

are key issues which are a major congregation of elk that get stampeded, the need to prevent cattle from entering, and that a 42" fence won't stop cattle. He stated the fence needed to be an effective fence so as to avoid potential conflict with different uses. The ranch has put forward an objective of willingness and BLM has worked hard to make it happen.

Jack Rinn wanted to clear up some of the things he'd overheard being discussed. Stroemple has three lots of record but only two are in wilderness. Dingle Creek is his other one. He got those lot of record dwelling approvals visa vie Oregon law that permits lot of record approval by a long time owner in the case of wilderness. Blair deed was signed by Roosevelt in long hand, so Blair applied for lot of record dwelling and was approved. Under Oregon law, as adopted by Harney County, the landowner has the right to pass that on one ownership. When the lot of record approval went before the Harney County Planning Commission, the issue of access came up and the issue of the BLM's stance on the subject came up. One of the planning commission members asked the question of BLM's representative at the meeting (Joan Suther). She said in response to a question about BLM's posture on access, "BLM does not object and yes the owner has access." That's as far as it went. He felt Council members could draw their own conclusions as to the relevance of that, assuming it is part of the planning commission minutes and he will followup and make sure it is recorded in this file. BLM did not object to the lot of record application and there were no appeals filed. He just wanted to make sure everyone knew that.

Pam Hardy congratulated everyone on the tremendous amount of work being done. One of the things she observed happening is the Council unearthing two fears that the different sides have experienced but haven't understood, yet are significant. One thing is the extent to which landowners are legitimately concerned about being squeezed out of private property and the other side is recognizing how much it is an issue. The landowners are just beginning to recognize the possibility of unfettered access abuse. She urged the members to think about how to build in a clause that rebuilds the power and alleviates that kind of fear. If BLM acknowledges there is access, then what brings landowners to the table for negotiation - reasonable access does that. It is a possibility that is how you come to the table. If BLM acknowledges there is access, but the point keeps landowners at the table is unreasonable access, which is something that can be dealt with. The third comment is what she appreciates about going to the Mountain is the fact it is so open and unfettered to public. As a private citizen who has no land up there she has the opportunity to walk and hike around without knowing if walking on public or private land. One of the things she was talking about with Susie was putting gates up. The landowners have prided themselves on not gating public out of their land. In Pam's experience that ability to walk from public to private is a unique experience and that kind of cooperation doesn't exist in most places. What she worries about is that if the Mountain is too strictly limited, that somehow the situation is not created where landowners want to fence those land. She likes the openness which is a wonderful value and everyone has agreed that the openness of Steens is important. She would like to keep it as an interest as it is an underlying concern for her even though it is not on the list.

David Blair, representing George Stroemple, wanted to strongly associate himself with the landowner comments in terms of how they are approaching this issue record for record. David's personal comments are on three things. First of all the most important place is where the Council and BLM agree. He believes SMAC has enormous power to set the course; however, the Council only has that power if they find agreement. If the Council comes to an agreement that isn't legal, the delegation will go make it legal for you. The question is where does this group agree? If the Council all comes to agreement, the BLM will find a way to make it happen. It is their job to find a way. The Councils' job is not to try to outguess that process but to do something that you think can work. With regard to access, historical and reasonable are kind of interchanged. He wants to be sure that historical access isn't at issue. The issue is reasonable access of private landowners today. It doesn't matter what happened 5 or 20 years ago, although it could be considered, it is really not the core issue. He's worked on conservation legislation in three states and the Steens represents a totally unique conservation problem partially because of the intermingled private property throughout the Mountain with no known model on how to deal with it. With regard to limitations on the development of private property, some will remember the Governor was interested in seeing if there was a Federal limitation on the things done on private property on Steens. That was something that was wrestled with for a couple of months, considered, and rejected because there is no limitation on private property, although there are tools and incentives including land acquisition. He stated the Act in no way limits the integrity of what the private property owner does on their land. There is totally unanimity on the question of dealing with private property through acquisition of voluntary seller and buyers. David's final point is he is encouraged by the discussions and some of the things emerging from the Council's work at this meeting. He believes a lot more acquiring of private inholdings is a point of agreement, as well as the need to protect wilderness.

Brent Fenty, ONDA, wanted to officially announce he will be leaving ONDA and moving to Alaska in early October. He expressed his appreciation for the time, respect and friendship the Council members have shown him. And although there hasn't always been agreement, he's always felt there has been mutual respect. He believes those working on this all have a common bond, the love of the Steens, and that is a place to start from and work forward through the issues.

Sandy Lonsdale, private citizen, stated he's lived here 30 + years and for about 15 of those years he made part or all of his income as a professional photographer and writer specializing in wild nature. He started visiting Steens Mountain in 1972 and has since made more trips there than he can remember. He visited all the Wilderness Study Areas in Oregon and photographed and written about them. He appreciates the Council came to Bend for their meeting, recognizing they all have busy lives as well. He stated Wilderness areas are special places for the American people, and they are certainly for him. He spoke of an occasion when he was on Home Creek and a herd of 32 bighorn sheep rams walked within 35 feet of him and weren't spooked. If a car had driven in the neighborhood, the noise would have carried a long way and he would never have gotten the pictures, pictures that have been published for people around the world to see. He understands private property and also understands wilderness. He believes that Oregon

does not have full compliment of Wilderness and has been an advocate for it for 20 + years. He believes without wilderness Oregon loses a lot of what makes Oregon special. What he values in wilderness is solitude, the working to appreciate what you find, you work by walking or riding a horse. Any nonmotorized access involves some work and a way to learn what these wilderness areas offer. He closed by saying if motorized access is allowed on these cherry stemmed roads, he hopes it is limited.

Steve Munson, a resident of Bend and CEO of a company that develops geothermal and biomass property, related he is working on a biomass project to restore rangeland by removing juniper. His view of the world is similar to many people who favor wilderness. The view that he holds of the cherry stemmed roads is different than others, because he believes there should be access to private inholdings across those roads. He thinks it is a good idea to work out a reasonable solution to it and soon. He wouldn't want to see it tie up the process and doesn't think it is a good precedence for other wilderness areas, i.e., to be viewed as adverse to inholding rights. He suggested the Council consider such things as very specific published times when roads or other structures might be fixed. A very limited schedule for those who might want to enjoy wilderness values and the people that own lands could count on. He also suggested considering some type of constraint on noise from vehicles, one possible solution would be the use of electric vehicles. He is concerned with any future development such as a resort. He would hate to see those lands located in those wilderness areas to become the subject of massive use that would adversely impact them.

### **Wilderness Inholder Access Con't:**

Over lunch five members discussed how to come up with general principles to give to BLM on how to approach inholders and came up with four overriding principles and ideas and placed them on flip charts A, B, C and D.

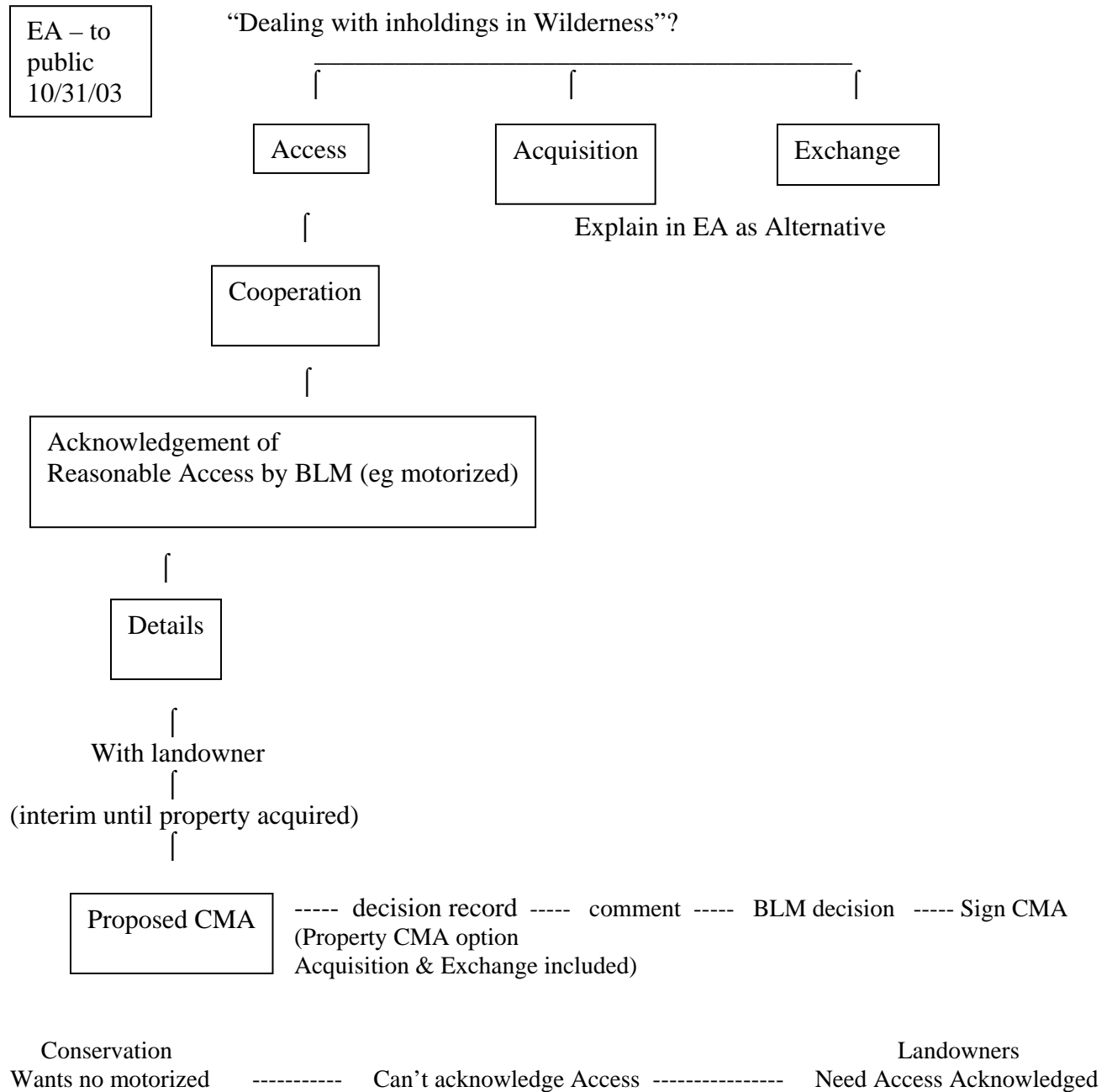
**Motion made and seconded** the SMAC adopt the process for analyzing inholder access in wilderness (the three sheets in the center of the board (A/B, C and D)). The process is described by C, reasonable access described by Charts A and B, and Chart D describes monitoring and guidelines that SMAC expects to be reflected in CMAs (Jason moved, Alice seconded).

#### **Flip Charts A/B**

1. SMAC recognizes reasonable motorized access.
2. Mountain conditions [seasons, weather, and road conditions] will determine motorized access.
3. Landowners, lessees and other interests agree to use best management practices to mitigate impact on resources and solitude (of CMAs)
4. BLM will establish monitoring protocols that allow users to report back to the BLM their experience.
5. BLM does monitor the impacts and mitigate for those impacts.

## Flip Chart C

“Attitude” of CMA is partnerships





## **Flip Chart D**

### Monitoring

- BLM will use user reports to mitigate conflicts (education, reroute, etc.)
- Advance notification (sign in vehicle, on gate) of [to] BLM as a courtesy to prevent conflicts (voluntary?)
- Details can be worked out in individual CMAs
- CMAs – SMAC members may request to discuss at meeting.
- Guidelines

Jerry suggestion for process, if no objection to the current motion, the Council move to consider other items and vote on the entire package at the end.

Dale asked if there was any objection to the motion on the floor with that understanding.

No objection was heard.

Members discussed possible time limits, how they should be incorporated and where would be the best place to address them.

Motion made to modify Jason's motion to add "With respect to Stroemple and Ellis inholdings, BLM would monitor and if it determined there was significant changes to either physical or habitat that adversely affect wilderness resources, the BLM could no sooner than 5 years but any time after that could review and perhaps come to a different decision"

Members discussed the need for renegotiation if changes occur and what timeframes under which this should happen. Support was expressed to make renegotiation clauses part of the CMA and it is up to landowner and BLM to decide what they are, a need for a 3 to 5 year range in one alternative and what would trigger the renegotiations.

**Motion made and seconded** to amend Jason's motion and add number 2 and 3 (Stacy moved, Dick seconded it.).

2. Renegotiation clauses should be part of CMAs
3. One alternative will have a 3 to 5 year interim with criteria to revising EA

Discussion: Members discussed the timeframes, and opportunities for change, as well as how this motion fits with the original.

Jerry objected to the motion, but after discussion withdrew his objection.

No objections to motion

No objection heard, those two items will be incorporated into Jason's original motion.

**Motion made and seconded** to amend the original motion so that all scoping comments that came in from the scoping letter be considered in drafting this EA (Jerry moved, Jason seconded).

No objection heard so that statement is incorporated into the original motion,

**Motion made** to modify the original motion to include that the SMAC recommends that if any acquisition monies acquired by BLM, will first be used to purchase the Ankle Creek inholdings if the sellers are willing. If money is left over, then it goes to the 50/50 division between purchases and conservation agreements etc. agreed to earlier would be honored (Jerry made, Dick seconded).

No objection was heard, original motion will be modified.

Motion made that BLM should pursue exchanges with willing participants when possible (Cindy moved, Jerry seconded it.).

No objection heard, original motion will be modified.

Jerry pointed out that the EA does not need to wait for the CMAs to be written to go public. They just need to be in the Decision Record. He asked how soon the EA could go out. Karla said mid-October. Jerry suggested the end of October as a deadline to give some leeway. Rather than a separate motion, this was added to Chart C to be voted on as part of the overall motion.

No objection was heard to the motion in its entirety.

**Consensus Decision:** Total Motion with Amendments: Original motion as amended was read. SMAC adopt the process for analyzing inholder access in wilderness the three sheets in the center of the board (A, B, C, D). The process is described by C, reasonable access described by Charts A & B, and Chart D describes monitoring and guidelines that SMAC expects to be reflected in CMAs. Renegotiation clauses should be part of CMAs. One alternative will have a 3 to 5 year interim with criteria to revising EA. All scoping comments be considered when drafting this EA. The SMAC recommends that any acquisition monies acquired by BLM, will first be used to purchase the Ankle Creek inholdings if the sellers are willing. If money is left over then it goes to the 50/50 division between purchases and conservation agreements etc. agreed to earlier would be honored. BLM should pursue exchanges with willing participants when possible.

## **Kiger Creek Fence**

SMAC members received a brief history of the fence and its current status. Some delays have occurred due to concerns with the adequacy of the fence material and design, its placement and ability to manufacture appropriate materials. Several members of the SMAC had requested this fence be brought back before them to discuss it and understand why it has been altered.

Fred Otley and Cam Swisher, BLM, explained the height of the fence of 42 inches is not satisfactory no matter what type of fence is built. Another issue is resistance to fire. Specific components of the fence were negotiated with other agencies separate from when the meetings were held for this group. The errors in fence design, etc., were identified after the original presentations. The Otley's had offered to put the fence on private land if it would help meet what has to be done. Concerns also centered around wildlife and their access and congregation. Part of the new idea is to build an elk crossing out of rock which is a new thing to try and to allow for deer crawls under the panels. The design is to try and find something that won't burn up in the first fire, to increase the height on the bottom and moderate slopes to 54 inches and drop to 48 as it gets steeper and 42 on the really rocky slopes. The easement Otley's give the BLM will be access to maintain and to construct fence. It will basically be a mutual easement situation, Otleys will allow it to be taken care of from private land which is less intrusion from the short term from construction activities and lots less intrusion in wilderness. None of it will come from wilderness unless necessary, most all things will be done from the private land portion.

Jerry questioned why where it gets steep in the wilderness part that it couldn't be switched to the original plan. Fred didn't think there was any way to stabilize a wood weave fence unless the entire structure was secured with a cable and a post on each side of every section which would nearly double the construction and material. The area is extremely steep and the amount of snow would probably push it down the hill.

The question was raised about the color of the panels. There is only one color option available if the purchase is to be local. Fred explained that existing large rocks will be the best way to secure the fence, with steel posts on the steep slopes then down on the bottom there will be wooden posts. All posts would be installed by hand. Fred explained they would helicopter the panels into the site in groups of 10 to 15. The only other option would be a pulley system and using a mechanized/motorized system. Helicopter would transport it but won't land and would take two days tops to get all the materials in place. Fred explained the option of a double-gate system. This would be a means of forcing one gate to be closed before the other one could be opened ensuring the gate is closed. Break away tops are also being studied, but it would only drop on one side, which is a concern. Deer crawls are also being incorporated in every 5<sup>th</sup> panel. Jerry pointed out that this experimental breaking-ground type of fence makes him nervous. He suggested perhaps BLM could find a means of monitoring using solar-powered motion detectors or the like to see why the fence is getting taken down. That might be a means to get it taken care of quicker.

Members urged BLM to ensure ODFW is included in the discussions. Jerry expressed a dislike of the changes in the EA resulting the need for sling loads and the possibility of motorized equipment; however, keeping cows out of Kiger is something that is required by the Steens Act, and taking an extended amount of time (which nonmotorized means would necessitate) could mean violating the agreement to get everything done in three years. He appreciated Fred's explanations and intent to minimize use of motorized equipment, so he was dropping his opposition.

## **Schedule of Meetings for Year:**

Jan 22 & 23  
Mar 1 & 2  
April 12 & 13  
May 10 & 11 – Bend  
June 14 & 15  
Aug 9 & 10  
Sept 13 & 14 – Frenchglen - one field day  
Nov 15 & 16  
Nothing in December

## **Agenda for November**

Members discussed and identified possible topics for November's meeting:

- Working Landscape Report
- Blackfoot challenge
- Wilderness Signing
- Recreational report from this summer
- Update on wild horses
- OYCC projects
- Wildlife

## **Burns District Manager:**

Tom Dyer addressed the Council by telling them he is leaving to move to Washington, D.C. to work in the national BLM office. He told the group to key in on successes even though they are tough to go through. Some of these things we would already be in lawsuits, and not getting anywhere. He reminded the SMAC of the success they've had in relation to the RMP, Tabor and a lot of other items. Dale White expressed appreciation to Tom from the communities and their leaders for his participation in the local community, pride, camp crews etc.

Submitted by Liz Appelman

The SMAC approved the September 2003 meeting minutes as amended on November 18, 2003.

Certified by:

\_\_\_\_\_  
Tom Harris, SMAC Chair

November 18, 2003

Date